

UNITED STATES DISTRICT COURT - DISTRICT OF NEW HAMPSHIRE

ANDRE BISASOR, Plaintiff,

v.

CRAIG S. DONAIS; RUSSELL F. HILLIARD; DONAIS LAW OFFICES, PLLC; UPTON & HATFIELD, LLP; and MARY K. DONAIS, Defendants.

Case No.1:23-cv-00374-JL

EMERGENCY/EXPEDITED
PLAINTIFF'S MOTION FOR REASONABLE ACCOMMODATION AND IN CAMERA
REVIEW PERTAINING TO THESE PROCEEDINGS
AND
TO STAY THE PROCEEDINGS UNTIL THE MOTION IS RESOLVED

1. I hereby move the court for a reasonable accommodation pursuant to the ADA and in accordance with the court's policies and procedures with respect to disability accommodations, and to schedule an *in camera* hearing to resolve this motion. Consequently, I also ask the court to stay the proceedings, including any pending deadlines, until this matter is resolved. Grounds are as follows.
2. I hereby aver that I have more than one medical condition that qualifies as a disability under the ADA. These medical conditions impede my ability to undertake certain actions in this court or otherwise to accord with certain court rules, including but not limited to certain of the pleading requirements of the court rules, and require reasonable accommodation by virtue of disability.
3. These medical conditions constitute private medical information and as such, I do not want to make them public. I thus ask the court to hold a hearing on this matter *in camera*, so that the privacy of this information can be maintained. It is my understanding that an *in camera* review will allow me to provide medical information to the court and also allow me to explain it further, in real time, or otherwise provide answers to questions by the court, if any, without that becoming public information. If I am wrong about this, please let me know.
4. Also, last week, because I assumed that there were established processes or procedures regarding requesting disability accommodation from this court, I tried asking the clerk's office for information that could assist me regarding this matter (so that I would not need to file a motion

of this nature or seek in camera review, etc.), but I did not obtain any information from the clerk's office about such processes and/or procedures in this court, that would assist me further with this matter. Therefore, I feel I have no choice but to seek this relief directly from the court by way of this motion.

5. Further, because I assume that it will require *in camera* review to resolve this matter, I have requested this *in camera* hearing. NB: I have thus refrained from providing further detail about my disabilities because to do so would make them public information, which would violate my HIPAA privacy rights and/or other privacy interests that are well-established under law.
6. Because of the nature of this motion and the need to schedule a hearing to resolve this motion, I ask the court to stay the proceedings, including any pending deadlines, until this matter is resolved.
7. It would be prejudicial to my rights to not have this matter resolved before proceeding with this case as it will impact my ability to be fully effective in the prosecution or defense of my claims and/or it may impede my ability to comply with certain court rules and/or court orders, which will redound to my prejudice.
8. I ask the court to temporarily stay the proceedings until this matter is resolved and until after a hearing can be scheduled and conducted.
9. It should be noted that granting this motion will not affect any hearings dates or scheduling order dates or trial dates because none of have been scheduled as yet. It will affect only one pending deadline relating to the re-filing of an opposition to a motion to dismiss, that is due by today's date, which deadline was only set by the magistrate judge on Friday 11/17/23, less than one business day ago (and which was after the clerk issued a 2 day notice of re-filing before that and for which I was told by the clerk to ask the judge for any extension). Because of this rushed deadline that I am required to comply with in one business day, by today, I am forced to confront the medical limitations that impede me in this case (putting aside any other concerns with respect

to such matters in this case). My medical limitations will prevent me from being able to comply with this deadline today. I also realize that this will be an ongoing problem and so I need a court ruling that will apply going forward so that I am not subject to prejudice due to these conditions.

10. It would have been difficult to meet the deadline set for one business day under normal circumstances but because of my medical conditions, the situation is exacerbated and I thus need to now bring these issues to the attention of the court, which I presume I am entitled to do without being prejudiced for speaking up about my disabilities.
11. It should be noted that this should be treated as a surprise because I have been alluding to medical issues in my previous filings including in MA federal court. However, the MA federal court relaxed certain court rules and pleading requirements and so I did not have to file a motion like this in the MA federal court. Because of the magistrate judge's ruling on 11/17/23, it is abundantly clear that I need to file this motion and I need to file it right away.
12. I also request that any hearing be conducted by remote means such as by Webex or Zoom. I live in Massachusetts, far from the court, and I also have medical grounds for not being able to participate in person in such a hearing. I understand that the court customarily provides Webex or Zoom hearings, so this request is simply a formality. Also, every other court I have been involved in since the Covid pandemic, has allowed me to participate remotely upon request. For example, previously in this case, I made a similar motion to allow Webex hearing and the Massachusetts federal court allowed me to participate in hearing by Webex or Zoom.
13. I also ask that this motion be referred to the district court judge assigned to this case. Please note that I am or will be filing a notice of non-consent to proceed with a magistrate judge concurrently with this motion. If the notice of non-consent is insufficient, then I intend to file a motion to recuse the magistrate judge if necessary, but I prefer not to have to file a motion to recuse because I do not want that to result in any actual or potential alienation with the court.

14. NB: I am concerned that the magistrate judge has portrayed a bent mind against me and this case and that I will be unable to obtain a fair hearing with the magistrate judge. I believe the magistrate judge has displayed bias in this case so far. This is a nuanced point, in that it will require some teasing out, but I do have reasonable grounds for that concern. However, I am hesitant to offer any criticism of the magistrate judge at this juncture because I have respect for the magistrate judge and I am concerned that any criticism could be construed as disrespect towards the magistrate judge. Moreover, I do not want to create any further bias or impulse to hurt or retaliate because of such criticism. I trust I am making sense. So, I hope that my filing a non-consent form is sufficient to have the case back referred to the district court judge assigned to the case. But if it is not sufficient to have the motion referred back to the district court judge, then I feel I will have no but to file a motion to recuse detailing the grounds for recusal. The bottom line is that I do not want to proceed with the magistrate judge in this case and prefer that this motion be ruled on by the district court assigned to the case. I do not want this motion or any other motion that I file to be not to be treated seriously or for it to be scoffed at, or to be chided simply because I exercise my right to petition the court or to reasonably request relief from the court. I do not want my motives to be unwarrantedly questioned or for mischaracterizations of my pleadings to be used in an unfair way to chide me (for example, the magistrate judge in a recent ruling on 11/17/23 misstated or misconstrued my words and asserted that I said that "I could not learn the court rules in 2 days", when I never said any such thing). I simply want a level playing field and to be meaningfully heard and to be treated with respect and dignity as a human being, and as an African-American, despite having little or no resources, connections or insider privileges and despite being an outsider to this state (all of which are traditionally recognized as creating disadvantages in the court system). I simply do not want to have the defendants' rights or perspective to be placed above mine or prioritized as more important than mine. I do not want to be treated harshly or as

lesser or as inferior because I am pro se and because I did not get to go to law school. I do not want my pleadings to be construed against me or to be construed in a light least favorable to me or for my words to be misstated or twisted around against me. I do not want to be treated with unnecessary skepticism or disdain, or for reasonable benefit of the doubt to not be reasonably afforded to me. I simply want a fair judge, with no penchant or predetermination for the defendants able only able to see through the eyes of the defendants or only able to put themselves in the shoes of the defendants, but I want a judge who can also fairly and conscientiously put themselves in my shoes as an indigent pro se nonlawyer who is an older citizen and has certain ongoing health challenges and other challenges that befuddle those who do not make a living practicing law i.e. regular people who are not lawyers. I want an equal playing field and I do not want my feet held to the fire on certain things while the defendants are given a free pass on said things, with a relaxed standard for the defendants but a tight stringent standard placed upon me and where I am chided for everything but nothing is ever said to the defendants about their conduct or not adhering to the rules, etc. Please note that this is not my motion to recuse, which as I said, I will file it later if necessary, but this is simply a parenthetical note as to why I am filing a notice of non-consent to proceed with the magistrate judge and why I would like to proceed with the district court judge. I do not expect any attempt to respond to this point here because I have not fleshed out the facts and arguments pertaining to that and would need time to do so in a proper motion to recuse. My key point here is that I am objecting to proceeding with the magistrate judge and that I request that this motion be ruled upon by the district court judge.

15. I did not have time to seek concurrence from the defendants on this motion because of the short timeline involved and the deadline that is due today.
16. I do not know if the defendants will oppose or not but it should be noted that any attempt by the defendants to try to scandalize me (with petty non-sequitur ad hominem attacks or with straw men

attacks or attempts to switch the subject to something else in order to try to distract the court from the core request and issue before the court in this motion) should not be countenanced by the court and if the defendants do this, they should be warned not to do so. If I have a disability requiring reasonable accommodation then I am entitled to relief and my right under the court policies or the ADA to obtain such relief cannot be arbitrarily or capriciously abridged regardless of whether or not the defendants may prefer that the court had no such policy or prefer that such relief not be available to those who have a disability as defined by the ADA. The bottom line is that I have made a valid request for relief seeking the use of certain available court mechanisms (i.e. *in camera* review) in order to resolve this motion. The defendants cannot opine on the merits of my request for reasonable accommodation without knowing what my medical conditions are. But, as noted before, I cannot disclose those publicly and hence the request for *in camera* review.

17. Please grant the relief requested or other relief deemed just and proper.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY

Respectfully submitted,

/s/ Andre Bisasor

Andre Bisasor

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November 20, 2023

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served to the defendants in this case.

/s/ Andre Bisasor

Andre Bisasor

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